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22 SEP 2006

In re Application of :
HUGEN, Thomas et al. :
Application No.: 10/088,029 : DECISION
PCT No.: PCT/EP00/07612 :
Int. Filing Date: 05 August 2000 : ON PETITION UNDER
Priority Date: 11 September 1999 :
Docket No.: 19943518 : 37 CFR 1.181
For: COMMUNTING MACHINE :
:

This decision is in response to applicant's "2nd Letter Requesting Correction of Application Date" filed on 09 August 2006. It has been treated as a petition under 37 CFR 1.181.

As indicated in the Decision On Petition mailed 02 August 2006, applicant was correctly accorded a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 10 November 2004 and is not entitled to a date of 24 June 2002.

Applicant claims to have submitted a petition under 37 CFR 1.137(b), accompanied by the required fee authorizations, by facsimile on 24 June 2002. The petition included a certificate of facsimile transmission under 37 CFR 1.8. That submission is not of record.

Under 37 CFR 1.8, an item is only considered timely on its transmission or mailing date. For all other purposes, the actual date of receipt is used. As such, when a response is transmitted under 37 CFR 1.8(b), but is not received after a reasonable period of time, the Office will accept a copy under certain conditions. However, the copy's date of receipt is used for all purposes other than timeliness. The actual date of receipt is 10 November 2004.

Further, applicant is not entitled to benefit under 37 CFR 1.8, as the application was abandoned and as such, applicant was not responding "within a set period of time."

For the above reasons, applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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